

# ICO Disclosure Log Response to Request

**Reference:** IRQ0541687 and IRQ0541700

**Date of response:** 11/06/2014

## Request

Request for a copy of the ICO decision described in a media report about the retention of personal data about a conviction in a newspaper archive.

## Response

I am writing further to our acknowledgement of your request for information. You requested a copy of the ICO 'decision' ie the ICO assessment in relation to the retention of a record of a conviction in a newspaper archive, which has recently been the subject of various media reports.

The matter described in the news reports relates to a complaint submitted to the ICO in its role as regulator of the Data Protection Act 1998 (DPA). This complaint has been dealt with by the ICO under the terms of section 42 of the DPA, under which the ICO can make an assessment as to whether it is likely or unlikely that a data controller's processing of personal data complies with the requirements of the DPA.

The ICO does not routinely publish the outcome of cases heard under s42 DPA; the outcome is in the form of a letter to parties to the case, and any information contained is likely to be the personal data of the complainant. It is also worth mentioning, at this point, that an ICO assessment of this form is not binding on any party and

has no force in law, but simply reflects the Information Commissioner's view on a particular matter, as presented to him.

We consider that it is possible to disclose some of the letter for this particular case, but with information which is the personal data of the complainant redacted. This includes the name or other identifying particulars of the complainant, but also the name and location of the newspaper and the date of the archive issue, because this could lead a motivated individual to locate the news item which is itself the personal data of the complainant.

Section 40(2) of the Freedom of Information Act 2000 (FOIA) allows a public authority to withhold information from a response to a request under the FOIA when the information requested is personal data relating to someone other than the requester, and its disclosure would contravene one of the Data Protection principles.

We consider that when individuals make complaints to the ICO, respond to the ICO's enquiries, or are otherwise in contact with the ICO, they do not anticipate or expect their personal details to be disclosed to anyone else simply on the basis that they are contained in information which has been requested under FOIA.

Therefore, we consider that such a disclosure would be unfair and in breach of the first Data Protection principle which states that – "Personal data shall be processed fairly and lawfully ..."

Please find attached a copy of the ICO letter to the newspaper, redacted as above, to remove information which is the personal data of the complainant.